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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-1606

Hortonville Joint School District No. 1; Board of Education of Hortonville Joint School District No. 1; Roger Weihing, Robert Hauk, Jean Meads, Floyd Meyer, Merlin Plamann, Victor Schroth and Ronald Surprise, individually and as officers and members of the Board of Education of Hortonville Joint School District No. 1; and Marvin Obry, Robert Kohls and Gene Riedl, individually and as administrators of Hortonville Joint School District No. 1,

Petitioners,

v.

Hortonville Education Association and Michael Wisnoski, Rose Marie Olson, Thomas Nadeau, Judy Murphy, Russel Lichte and Ronald Hammond,

Respondents.

BRIEF OF PENNSYLVANIA SCHOOL BOARDS ASSOCIATION AS AMICUS CURIAE

JEROME T. FOERSTER, ESQUIRE
WILLIAM FEAREN, ESQUIRE
Cleckner & Fearen
31 North Second Street
Harrisburg, Pennsylvania 17101

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STATEMENT OF INTEREST

The Pennsylvania School Boards Association is a voluntary Association which has as its membership the 505 local school districts and the members of the school boards of these school districts, which provides the local governance of the public schools of the Commonwealth of Pennsylvania. The Pennsylvania School Boards Association was organized in 1895 as the first such Association in the Nation and has as its function the rendering of assistance to local school districts and the representation of the general public interest in the field of public education.

The Pennsylvania School Boards Association is committed to the principal of local lay control of public education and is gravely concerned that the decision in this case, if affirmed, will significantly undermine the power and authority of locally elected school officials and remove from such officials the power to take appropriate action to discharge public employees when in the judgment of such locally elected officials such action is required by the then prevailing circumstances. The Pennsylvania School Boards Association is further concerned that if locally elected officials are under a

Constitutional disability to discharge school employees engaged in an unlawful strike, such disability may extend to the power to discharge employees for any reason where, under tenure laws such as those existing in the Commonwealth of Pennsylvania, the school district in the discharge of any professional employee is required to serve notice upon the employee and to accompany such notice with specificiations of charges signed by officials of the school board. The Pennsylvania School Boards Association believes that the decision of the Wisconsin Supreme Court has far reaching implications in diluting the power of locally elected officials and should be reversed in the interest of preserving local lay control in public education.

STATEMENT OF POSITION AND JOINDER IN THE BRIEF OF WISCONSIN ASSOCIATION OF SCHOOL BOARDS, INC.

The Pennsylvania School Boards Association believes that the issue of the preservation of local lay control of public education is ably stated in the brief of the Wisconsin Association of School Boards, Inc., Amicus Curiae, filed in connection with this case. A restatement in this brief of the arguments and authorities there set forth would be a redundancy which would be of no service to your Honorable Court. Accordingly, the Pennsylvania School Boards Association joins in the brief of the Wisconsin Association of School Boards, Inc., and represents to the Court that the positions stated there are in fact the positions of the Pennsylvania School Boards Association. On the basis of the arguments there stated, the Pennsylvania School Boards Association respectfully urges that the decision of the Wisconsin Supreme Court be reversed.

Respectfully submitted,

JEROME T. FOERSTER, ESQUIRE

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CONSENT TO THE FILING OF A BRIEF OF AN AMICUS CURIAE

Pursuant to Rule 42 (2), Rules of the Supreme Court of the United States, the parties to the above captioned case, by their counsel, hereby consent to the filing of a brief amicus curiae by the PENNSYLVANIA SCHOOL BOARDS ASSOCIATION, INC. in support of Petitioners.

November 13, 1975.

/s/ Thomas W. St. John
THOMAS W. ST. JOHN
FRIEBERT & FINERTY
Counsel for Respondents

/s/ Jack D. Walker
JACK D. WALKER
MELLI, SHIELS, WALKER & PEASE, S.C.
Counsel for Petitioners